

MT LEGISLATIVE HISTORY

Chapter 392 19 85

Bill (H) 760 S \_\_\_\_\_

Original bill & hist. ✓C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) FEB 20 ✓C

Hearing Date(s) MAR 26 ✓C

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Date Out FEB 20 ✓C

MAR 26 ✓C

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Did this bill originate in an interim committee? \_\_\_\_ Yes \_\_\_\_ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

| Chap.<br>Num. | Senate<br>Bill | House Sponsor<br>Bill | Title                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------|----------------|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 380           |                | 530 C. Smith          | An act clarifying application of overweight vehicle penalties and providing an additional penalty of \$100 for failure to use a retractable axle if a vehicle is so equipped and is overweight; amending section 61-10-145, MCA.....Page 704                                                                                                                                                                                                                                           |
| 381           |                | 560 Bardanouve        | An act removing the Swan River Youth Forest Camp from designation as a juvenile correctional facility; amending sections 53-30-202 and 53-30-214, MCA.....Page 705                                                                                                                                                                                                                                                                                                                     |
| 382           |                | 594 Cobb              | An act requiring notice of entry onto land by appropriate state and local personnel for certain floodplain and floodway management purposes; requiring release upon request of names and addresses of all persons or any political subdivision requesting investigation of a natural or artificial obstruction or nonconforming use; amending section 76-5-105, MCA.....Page 706                                                                                                       |
| 383           |                | 622 Thoft             | An act to delete as an element of the offense of issuing a bad check the requirement that it be done with the purpose of obtaining control over property or to secure property, labor, or services of another; amending section 45-6-316, MCA.....Page 707                                                                                                                                                                                                                             |
| 384           |                | 627 Keenan            | An act to specify the general duties of a guardian ad litem in cases of child abuse or neglect; amending section 41-3-303, MCA....Page 707                                                                                                                                                                                                                                                                                                                                             |
| 385           |                | 634 Lory              | An act providing a special revenue account for funding the operations of the securities division of the state auditor's office; providing for deposit in the account of fees, examination charges, and miscellaneous charges collected by the division; providing that fines and penalties collected by the division are to be deposited into the general fund; amending section 30-10-209, MCA; and providing an effective date. ....Page 708                                         |
| 386           |                | 638 Iverson           | An act revising the law providing exemptions for small miners from the hard-rock mining law; prohibiting certain persons, business associations, partnerships, and corporations from obtaining small miner exemptions; substituting a civil penalty for failure to comply with the conditions of a small-miner exemption; amending sections 82-4-303, 82-4-305, and 82-4-361, MCA.....Page 711                                                                                         |
| 387           |                | 654 Pavlovich         | An act providing that certain motor vehicle operation fines be allocated to the county general fund; amending section 61-12-703, MCA. ....Page 715                                                                                                                                                                                                                                                                                                                                     |
| 388           |                | 665 Keenan            | An act to revise the procedures involved in terminating the parent-child legal relationship; amending sections 41-3-603, 41-3-607, 41-3-609, and 41-3-610, MCA.....Page 715                                                                                                                                                                                                                                                                                                            |
| 389           |                | 714 Spaeth            | An act to clarify the definition of "claim" under Montana's tort claims law; amending sections 2-9-101 and 2-9-107, MCA; and providing an immediate effective date. ....Page 718                                                                                                                                                                                                                                                                                                       |
| 390           |                | 730 Cohen             | An act revising laws relating to weatherization; requiring the Department of Social and Rehabilitation Services to allocate and spend for home weatherization at least 5 percent of funds received from the federal low-income home energy assistance program; amending sections 90-4-201 and 90-4-202, MCA.....Page 720                                                                                                                                                               |
| 391           |                | 759 Lory              | An act providing an insurance regulatory trust account within the state special revenue fund to provide funding for the operations of the Insurance Department of the State Auditor's office on the basis of fees and examination and miscellaneous charges collected by the department; providing that taxes, fines, and penalties collected by the department must be deposited into the general fund; amending section 33-2-708, MCA; and providing an effective date. ....Page 721 |
| 392           |                | 760 Nathe             | An act requiring the court, to the extent of its jurisdiction, to dispose of the issues of child support and custody, maintenance, and property division in the dissolution decree; amending section 40-4-104, MCA. ....Page 725                                                                                                                                                                                                                                                       |
| 393           |                | 796 Quilici           | An act providing a cost-of-living increase in service and disability retirement allowances and survivorship allowances paid to certain members of the Sheriffs' Retirement System or their beneficiaries; increasing the counties' contributions to the retirement system; amending section 19-7-404, MCA; and providing an effective date. ....Page 726                                                                                                                               |

2/22 TRANSMITTED TO SENATE  
 3/08 REFERRED TO NATURAL RESOURCES  
 3/08 HEARING  
 3/09 COMMITTEE REPORT-BILL CONCURRED  
 3/12 2ND READING CONCURRED  
 3/14 3RD READING CONCURRED

3/16 RETURNED TO HOUSE  
 3/16 SIGNED BY SPEAKER  
 3/18 SIGNED BY PRESIDENT

3/19 TRANSMITTED TO GOVERNOR  
 3/20 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 128 EFFECTIVE DATE: 3/20/85

HB 756 INTRODUCED BY MENAHAN, DRISCOLL, ET AL.  
 REQUIRE TRUSTEES TO SEEK VOTER APPROVAL TO PAY  
 SUPERINTENDENT OVER \$50,000

2/09 INTRODUCED  
 2/09 REFERRED TO EDUCATION & CULTURAL RESOURCES  
 2/20 HEARING  
 DIED IN COMMITTEE

HB 757 INTRODUCED BY HANSEN  
 HEALTH CARE COST CONTAINMENT BOARD

2/09 INTRODUCED  
 2/09 REFERRED TO HUMAN SERVICES & AGING  
 3/06 HEARING  
 DIED IN COMMITTEE

HB 758 INTRODUCED BY WINSLOW  
 REQUIRE SCREENING COMMITTEES TO REVIEW CHILD  
 PLACEMENT IN A CARE FACILITY

2/09 INTRODUCED  
 2/09 REFERRED TO HUMAN SERVICES & AGING  
 2/18 HEARING  
 2/22 COMMITTEE REPORT-BILL PASS AS AMENDED  
 2/25 2ND READING PASS AS AMENDED  
 2/26 3RD READING PASS

3/04 TRANSMITTED TO SENATE  
 3/20 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY  
 3/20 HEARING  
 3/28 ADVERSE COMMITTEE REPORT  
 3/28 BILL KILLED

HB 759 INTRODUCED BY LORY, QUILICI, ET AL.  
 SPECIAL REVENUE ACCOUNT FOR OPERATIONS OF INSURANCE  
 DIVISION -- STATE AUDITOR  
 BY REQUEST OF INSURANCE DIVISION

2/09 INTRODUCED  
 2/09 REFERRED TO BUSINESS & LABOR  
 2/11 FISCAL NOTE REQUESTED  
 2/13 HEARING  
 2/13 COMMITTEE REPORT-BILL DO PASS  
 2/15 FISCAL NOTE RECEIVED

2/16 2ND READING PASS 91 0  
 2/19 3RD READING PASS 99 0

TRANSMITTED TO SENATE  
 2/21 REFERRED TO BUSINESS & INDUSTRY  
 3/18 REREFERRED TO FINANCE & CLAIMS  
 3/26 HEARING  
 3/26 COMMITTEE REPORT-BILL CONCURRED  
 3/29 2ND READING CONCURRED 28 22  
 3/30 3RD READING CONCURRED 28 22

RETURNED TO HOUSE  
 4/04 SIGNED BY SPEAKER  
 4/04 SIGNED BY PRESIDENT

4/04 TRANSMITTED TO GOVERNOR  
 4/08 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 391 EFFECTIVE DATE: 7/01/85

HB 760 INTRODUCED BY NATHE, MERCER, ET AL.  
 DISSOLUTION DECREE MAY NOT BE ENTERED UNTIL 90 DAYS  
 AFTER FILING AND SERVICE

2/09 INTRODUCED  
 2/09 REFERRED TO JUDICIARY  
 2/20 HEARING  
 2/20 ADVERSE COMMITTEE REPORT  
 2/21 OBJECTION TO ADVERSE COMMITTEE REPORT  
 2/25 2ND READING PASS AS AMENDED 66 29  
 2/27 3RD READING PASS 80 20

TRANSMITTED TO SENATE  
 3/05 REFERRED TO JUDICIARY  
 3/26 HEARING  
 3/26 COMMITTEE REPORT-BILL CONCURRED  
 3/29 2ND READING CONCURRED 49 1  
 3/30 3RD READING CONCURRED 48 1

RETURNED TO HOUSE  
 4/04 SIGNED BY SPEAKER  
 4/04 SIGNED BY PRESIDENT

4/04 TRANSMITTED TO GOVERNOR  
 4/08 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 392 EFFECTIVE DATE: 10/01/85

HB 761 INTRODUCED BY C. SMITH, JONES, ET AL.  
 REVISING LAW ON TRAVEL EXPENSE REIMBURSEMENT FOR  
 PERSONS IN STATE SERVICE  
 BY REQUEST OF HOUSE STATE ADMINISTRATION

2/11 INTRODUCED  
 2/11 REFERRED TO STATE ADMINISTRATION  
 2/11 FISCAL NOTE REQUESTED  
 2/13 HEARING  
 2/13 COMMITTEE REPORT-BILL PASS AS AMENDED  
 2/15 FISCAL NOTE RECEIVED 79 15  
 2/16 2ND READING PASS  
 2/16 REREFERRED TO APPROPRIATIONS  
 DIED IN COMMITTEE

1                    HOUSE BILL NO. 760  
2     INTRODUCED BY NATHAN Mace COB, Thomas C. Grief  
3  
4     A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DECREE  
5     OF MARRIAGE DISSOLUTION MAY NOT BE ENTERED UNTIL AT LEAST 45  
6     DAYS AFTER SERVICE ON THE RESPONDENT; REQUIRING THE COURT,  
7     TO THE EXTENT OF ITS JURISDICTION, TO DISPOSE OF THE ISSUES  
8     OF CHILD SUPPORT AND CUSTODY, MAINTENANCE, AND PROPERTY  
9     DIVISION IN THE DISSOLUTION DECREE; AMENDING SECTIONS  
10    40-4-104 AND 40-4-105, MCA."

11  
12    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13            Section 1. Section 40-4-104, MCA, is amended to read:

14            "40-4-104. Dissolution of marriage -- legal  
15    separation. (1) The district court shall enter a decree of  
16    dissolution of marriage if:

17            (a) the court finds that one of the parties, at the  
18    time the action was commenced, was domiciled in this state  
19    or was stationed in this state while a member of the armed  
20    services and that the domicile or military presence has been  
21    maintained for 90 days next preceding the making of the  
22    findings;

23            (b) the court finds that the marriage is irretrievably  
24    broken, which findings shall be supported by evidence:

25            (i) that the parties have lived separate and apart for

1    a period of more than 180 days next preceding the  
2    commencement of this proceeding; or

3            (ii) that there is serious marital discord which  
4    adversely affects the attitude of one or both of the parties  
5    towards the marriage;

6            (c) the court finds that the conciliation provisions  
7    of the Montana Conciliation Law and of 40-4-107 either do  
8    not apply or have been met; and

9            (d) to the extent it has jurisdiction to do so, the  
10   court has considered, approved, or made provision for child  
11   custody, the support of any child entitled to support, the  
12   maintenance of either spouse, and the disposition of  
13   property ~~or--provided--for--a--separate--later--hearing-to~~  
14   ~~complete-these-matters; and~~

15            (e) at least 45 days have elapsed since the date when  
16   service of summons was made on the respondent or the first  
17   publication of summons was made.

18            (2) If a party requests a decree of legal separation  
19   rather than a decree of dissolution of marriage, the court  
20   shall grant the decree in that form unless the other party  
21   objects."

22            Section 2. Section 40-4-105, MCA, is amended to read:

23            "40-4-105. Procedure -- commencement -- pleadings --  
24   abolition of existing defenses. (1) The verified petition in  
25   a proceeding for dissolution of marriage or legal separation

1 shall allege that the marriage is irretrievably broken and  
2 shall set forth:

3 (a) the age, occupation, and residence of each party  
4 and his length of residence in this state;

5 (b) the date of the marriage and the place at which it  
6 was registered;

7 (c) that the jurisdictional requirements of 40-4-104  
8 exist and that the marriage is irretrievably broken in that  
9 either:

10 (i) the parties have lived separate and apart for a  
11 period of more than 180 days next preceding the commencement  
12 of this proceeding; or

13 (ii) there is serious marital discord which adversely  
14 affects the attitude of one or both of the parties towards  
15 the marriage, and there is no reasonable prospect of  
16 reconciliation;

17 (d) the names, ages, and addresses of all living  
18 children of the marriage and whether the wife is pregnant;

19 (e) any arrangements as to support, custody, and  
20 visitation of the children and maintenance of a spouse; and

21 (f) the relief sought.

22 (2) Either or both parties to the marriage may  
23 initiate the proceeding.

24 (3) If a proceeding is commenced by one of the  
25 parties, the other party must be served in the manner

1 provided by the Montana Rules of Civil Procedure and may  
2 within 20 days after the date of service file a verified  
3 response. ~~No decree may be entered until 20 days after the~~  
4 ~~date of service.~~

5 (4) Previously existing defenses to divorce and legal  
6 separation, including but not limited to condonation,  
7 connivance, collusion, recrimination, insanity, and lapse of  
8 time, are abolished.

9 (5) The court may join additional parties proper for  
10 the exercise of its authority to implement this chapter."

-End-

STATUS SHEETFORTY-NINTH

LEGISLATIVE SESSION

COMMITTEE ON

JUDICIARY

| <u>HOUSE</u><br><u>BILL NO.</u> | <u>ENTERED</u><br><u>COMM.</u> | <u>DATE</u><br><u>CONSIDERED</u> | <u>OUT OF</u><br><u>COMM.</u> | <u>DO PASS</u><br><u>DATE</u>      | <u>DO NOT</u><br><u>PASS</u><br><u>DATE</u> | <u>DO PASS</u><br><u>AS AMEND.</u><br><u>DATE</u> | <u>BE CON-</u><br><u>CURRED IN</u><br><u>DATE</u> | <u>BE CONC. IN</u><br><u>AS AMENDED</u><br><u>DATE</u> | <u>BE NOT CON-</u><br><u>CURRED IN</u><br><u>DATE</u> |
|---------------------------------|--------------------------------|----------------------------------|-------------------------------|------------------------------------|---------------------------------------------|---------------------------------------------------|---------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------|
| HB 760                          | 2/9/85                         | 2/20/85                          | 2/20/85                       |                                    | 2/20/85                                     |                                                   |                                                   |                                                        |                                                       |
| HB 443                          | 2/9/85                         | 2/11/85                          | 2/11/85                       | (re-referred back to comm.)        |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 767                          | 2/11/85                        | 2/20/85<br>2/21/85               | (tabled                       | 2/21/85)                           |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 779                          | 2/11/85                        | 2/20/85                          | 2/20/85                       | 2/20/85                            |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 781                          | 2/11/85                        | 2/21/85                          | 2/21/85                       | 2/21/85                            |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 790                          | 2/11/85                        | 2/20/85                          | 2/20/85                       | 2/20/85                            |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 793                          | 2/12/85                        | 2/22/85<br>2/23/85               | 2/23/85                       |                                    |                                             | 2/23/85                                           |                                                   |                                                        |                                                       |
| HB 794                          | 2/12/85                        | 2/21/85<br>2/22/85               | 2/22/85                       |                                    |                                             | 2/22/85                                           |                                                   |                                                        |                                                       |
| HB 795                          | 2/12/85                        | 2/19/85                          | 2/19/85                       | 2/19/85                            |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 797                          | 2/12/85                        | 2/21/85<br>2/22/85               | 2/22/85                       |                                    | 2/22/85                                     |                                                   |                                                   |                                                        |                                                       |
| HB 799                          | 2/12/85                        | 2/22/85                          | 2/22/85                       |                                    |                                             | 2/22/85                                           |                                                   |                                                        |                                                       |
| HB 801                          | 2/12/85                        |                                  | 2/18/85                       | (referred to state administration) |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 803                          | 2/12/85                        | 2/20/85                          | 2/20/85                       |                                    |                                             | 2/20/85                                           |                                                   |                                                        |                                                       |
| HB 807                          | 2/12/85                        | 2/21/85                          | 2/21/85                       |                                    |                                             | 2/21/85                                           |                                                   |                                                        |                                                       |
| HB 808                          | 2/12/85                        | 2/21/85                          | 2/21/85                       | 2/21/85                            |                                             |                                                   |                                                   |                                                        |                                                       |
| HB 809                          | 2/12/85                        | 2/21/85                          | 2/21/85                       |                                    |                                             | 2/21/85                                           |                                                   |                                                        |                                                       |

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 20, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Tuesday, February 20, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Poff who was previously excused.

CONSIDERATION OF HOUSE BILL NO. 790: Rep. Jack Ramirez, District #87, testified in support of HB 790. This bill deals with when a writ of attachment may be issued. It has been held by the Montana Supreme Court that a guaranteed contract is not subject to attachment because the attachment statute requires that an individual can have attachment only when that person has an action upon a contract, express or implied, for the direct payment of money. The Montana Supreme Court has interpreted direct payment of money to exclude guaranteed contracts. (He referred to two Montana Supreme Court cases, Stensvad vs Miners & Merchant's Bank of Roundup, 183M 160, (1979) and Wall vs Brookman 72M228, (1925)). Because of the supreme court decision, if you cannot get an attachment on a contract of guarantee, what has happened is that the banks have gone almost consistently to surety contracts.

There being no further proponents or opponents, Rep. Ramirez closed.

There were no questions from the committee, and hearing closed on HB 790.

CONSIDERATION OF HOUSE BILL NO. 760: Rep. Dennis Nathe, District #19, chief sponsor, testified in support of the bill. He stated that this is a bill which would amend the divorce laws of the state of Montana. The bill does two things: first, it would provide that a decree of marriage dissolution may not be entered until at least 45 days after service on the respondent; second, before the final decree is entered, the issues of child support, custody maintenance and property division must be resolved. He said that if these issues are not resolved, they can go on for five, six and seven years, thus, making it increasingly more difficult to obtain settlements. Rep. Nathe further stated that if the committee feels that the 45-day period is too long, he would not object to that figure being decreased. Rep. Nathe feels that HB 760 may help to salvage a few more marriages in this state. He feels the

present time frame of 21 days is too short of a period to obtain a divorce.

Pat Melby, representing the Montana State Bar Association, stated that the Montana Supreme Court supports this bill as far as having child support arrangements, property division, and other issues of the marriage resolved before the final decree is entered.

There being no further proponents or opponents, Rep. Nathe closed.

The floor was opened for questioning.

In response to a question asked by Rep. Krueger, Mr. Melby feels that it is important that all elements of dispute be settled before the final decree is entered. He feels all the issues involved should be made a part of the final decree.

There being no further questions, hearing closed on HB 760.

CONSIDERATION OF HOUSE BILL NO. 779: Rep. Mary Ellen Connelly, District #8, chief sponsor of the bill, appeared and offered testimony. She said this is an act creating a special law enforcement assistance account; authorizing the account to receive funds and properties forfeited under federal law, and to be used in Montana for law enforcement. She said a program is being set up in the Department of Justice with undercover agents which has appropriated monies for.

There being no further proponents or opponents, Rep. Connelly closed. She feels this is a good idea in that it would bring money into Montana to help in this area because Montana is a dumping ground for drugs.

Rep. Krueger directed a question to Kim Kradolpher from the attorney general's office. He asked what kinds of amount of money or property are we talking about. Ms. Kradolpher stated that she really doesn't have an answer to that. There has been some federal legislation that has been amending several forfeiture statutes, and it would basically depend on what kinds of property and monies are forfeited under federal forfeiture proceedings. The federal legislation which was enacted last fall will allow some of it to go to the states if it is insured that it will go directly to law enforcement for these kinds of activities.

There being no further questions, hearing closed on HB 779.

CONSIDERATION OF HOUSE BILL NO. 744: Hearing commenced on HB 744. Rep. Gary Spaeth, District #84, chief sponsor of HB 744 testified. The bill essentially inserts the word "start" in two provisions under 50-53-103. He stated that this bill imposes a standard of strict liability in essentially starting a fire.



There being no further proponents or opponents, Rep. Bergene closed.

The floor was opened to questions from the committee.

Rep. Rapp-Svrcek stated that he is concerned with aggregate value of the tools of the trade. He asked if this meant that all but \$750 worth of an individual's tools could be taken from him? Mr. Kirkland said that it would be the case under this bill. The federal bankruptcy code as well has a \$750 cap on tools of the trade. Mr. Kirkland wanted the committee to keep in mind that this is for a natural person. If a lot of the contractors, carpenters and other types of professional people are incorporated entities, these exemptions would not apply to those incorporated entities.

There being no further questions, hearing on HB 834 closed.

#### EXECUTIVE SESSION

Chairman Hannah called an executive session to order at 8:30 a.m.

ACTION ON HOUSE BILL NO. 303: Rep. Brown moved that HB 803 DO PASS. The motion was seconded by Rep. Cobb.

Rep. Hannah admonished the committee that they should be ready to defend the cost impact that this will have on local government when HB 803 is brought before the House floor.

Rep. Darko spoke in favor of the bill saying that by increasing the juror's fees, more jurors will be willing to serve on a jury panel.

Rep. Mercer moved the following amendment:

1. Page 1, following line 23.

Insert: "(4) A juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice or who has been summoned as a special juror and not sworn in, the trial of the case shall forfeit per diem and mileage."

The motion was seconded by Rep. O'Hara, and it carried unanimously on a voice vote.

Rep. Brown further moved that HB 803 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond. The question was called, and the motion carried unanimously.

(Rep. Eudaily requested a fiscal note be prepared.)

ACTION ON HOUSE BILL NO. 760: Rep. O'Hara moved that HB 760 DO PASS. The motion was seconded by Rep. Hammond and

further discussed.

Rep. Krueger stated his objection to the do pass motion. He doesn't agree with the sponsor of the bill in that it will help marriages keep intact. He doesn't feel that people should be forced to remain married if they don't wish to. He also pointed out that in many cases, it can take up to six months or longer to settle the issues of property settlement, child custody and child support matters.

Rep. Krueger made a substitute motion that HB 760 DO NOT PASS. The motion was seconded by Rep. Brown and further discussed.

Rep. Mercer spoke against the substitute motion by saying that if people are allowed to get a divorce before any of the other issues are resolved, a tremendous driving force will be taken away to get these other issues resolved.

The question was called on the DO NOT PASS motion, and it carried 9-6. (See roll call vote)

ACTION ON HOUSE BILL NO. 779: Rep. O'Hara moved that HB 779 DO PASS. The motion was seconded by Rep. Brown.

Rep. O'Hara further moved to amend HB 779 on page 2, lines 6 and 7 to strike subsection (3) in its entirety. Furthermore, the amendment would include striking the "." on line 5 following "contraband" and inserting "; and". The motion was seconded by Rep. Gould and discussed.

Rep. Hannah spoke against the motion to amend and said that we need to be prepared in the areas dealing with gambling.

The question was called on the motion to amend, and it failed on a voice vote.

Rep. O'Hara moved that HB 779 DO PASS. The motion was seconded by Rep. Gould and carried with Reps. Brown, Rapp-Svrcek and Montayne dissenting.

ACTION ON HOUSE BILL NO. 714: Rep. Brown moved that HB 714 DO PASS. The motion was seconded by Rep. O'Hara.

Rep. Krueger stated that this bill limits the claims of the state up to \$300,000 no matter how many claimants are involved. He said that this bill allows the state to be protected only to the extent of \$300,000. He feels this is a gross inequity in relation to society in general. It is also limiting claims in relation to severe cases. He feels that this bill is going clearly beyond the grounds of any other civil action in the court system. We are attempting to protect the government based on circumstances

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/20/85

| NAME                       | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| Tom Hannah (Chairman)      | ✓       |        |         |
| Dave Brown (Vice Chairman) | ✓       |        |         |
| Kelly Addy                 | ✓       |        |         |
| Toni Bergene               | ✓       |        |         |
| John Cobb                  | ✓       |        |         |
| Paula Darko                | ✓       |        |         |
| Ralph Eudaily              | ✓       |        |         |
| Budd Gould                 | ✓       |        |         |
| Edward Grady               | ✓       |        |         |
| Joe Hammond                | ✓       |        |         |
| Kerry Kevser               | ✓       |        |         |
| Kurt Krueger               | ✓       |        |         |
| John Mercer                | ✓       |        |         |
| Joan Miles                 | ✓       |        |         |
| John Montayne              | ✓       |        |         |
| Jesse O'Hara               | ✓       |        |         |
| Bing Poff                  |         |        | ✓       |
| Paul Rapp-Svrcek           | ✓       |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 7:30 p.m.

Date 2/20/85

| NAME                       | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| Tom Hannah (Chairman)      | ✓       |        |         |
| Dave Brown (Vice Chairman) | ✓       |        |         |
| Kelly Addy                 | ✓       |        |         |
| Toni Bergene               |         |        | ✓       |
| John Cobb                  | ✓       |        |         |
| Paula Darko                |         |        | ✓       |
| Ralph Eudaily              | ✓       |        |         |
| Budd Gould                 |         |        | ✓       |
| Edward Grady               |         |        | ✓       |
| Joe Hammond                | ✓       |        |         |
| Kerry Keyser               | ✓       |        |         |
| Kurt Krueger               | ✓       |        |         |
| John Mercer                | ✓       |        |         |
| Joan Miles                 |         |        | ✓       |
| John Montayne              | ✓       |        |         |
| Jesse O'Hara               | ✓       |        |         |
| Bing Poff                  | ✓       |        |         |
| Paul Rapp-Svrcek           | ✓       |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |

# STANDING COMMITTEE REPORT

February 20 1935

SPEAKER:  
MR. ....

We, your committee on JUDICIARY .....

having had under consideration HOUSE Bill No. 760

FIRST reading copy (WHITE color)

DISSOLUTION DECREE MAY NOT BE ENTERED UNTIL 90 DAYS AFTER FILING  
AND SERVICE

Respectfully report as follows: That HOUSE Bill No. 760

DO NOT PASS  
DO PASS

STATE PUB. CO.  
Helena, Mont.

REP. TOM HANRAH

Chairman.

COMMITTEE SECRETARY

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 20, 1985

BILL NO. HB 760

TIME 8:45 a.m.

| NAME                       | AYE | NAY |
|----------------------------|-----|-----|
| Kelly Addy                 |     |     |
| Toni Bergene               | ✓   |     |
| John Cobb                  |     | ✓   |
| Paula Darko                | ✓   |     |
| Ralph Eudaily              |     | ✓   |
| Budd Gould                 | ✓   |     |
| Edward Grady               | ✓   |     |
| Joe Hammond                | ✓   |     |
| Kerry Keyser               |     | ✓   |
| Kurt Krueger               | ✓   |     |
| John Mercer                |     | ✓   |
| Joan Miles                 | ✓   |     |
| John Montayne              | ✓   |     |
| Jesse O'Hara               |     | ✓   |
| Bing Poff                  |     |     |
| Paul Rapp-Svrcek           | ✓   |     |
| Dave Brown (Vice Chairman) | ✓   |     |
| Tom Hannah (Chairman)      |     | ✓   |
|                            |     |     |
|                            |     |     |
|                            |     |     |
|                            |     |     |

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Kreuger made a substitute motion that HB 760 DO

NOT PASS. The motion was seconded by Rep. Brown and carried

9-6.

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM  
 FINAL COMMITTEE REPORT OF REFERRED BILLS  
 COMMITTEE--(S) JUDICIARY

PAGE NBR..... 197  
 RUN TIME ..... 8:07  
 RUN DATE.... 04/29/85

CHAIRMAN--MAZUREK, JOE

SECRETARY--STALEY, CINDY

NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

| BILL NO           | REFER DATE | HEARING DATE | CONSIDERATION DATES                                                          | COMMITTEE ACTION  | REREFERRED TO COMM | DATE OUT |
|-------------------|------------|--------------|------------------------------------------------------------------------------|-------------------|--------------------|----------|
| HB0681            | 2/15       | 3/15         |                                                                              | CONCUR AS AMENDED |                    | 3/19     |
| BROWN, JAN        |            |              | ALLOW RELEASE OF CONFIDENTIAL HEALTH INFORMATION TO MEDIA & LAW ENFORCEMENT  |                   |                    |          |
| HB0700            | 2/22       | 3/15         | 3/20 3/26                                                                    | CONCUR AS AMENDED |                    | 3/28     |
| MERCER, JOHN A.   |            |              | REGULATE PLEA BARGAINS; REQUIRE GOOD CAUSE BE SHOWN FOR DISMISSAL            |                   |                    |          |
| HB0706            | 2/22       | 3/15         |                                                                              | CONCUR AS AMENDED |                    | 3/15     |
| MERCER, JOHN A.   |            |              | CLARIFY THE ARSON LAW                                                        |                   |                    |          |
| HB0712            | 3/04       | 3/18         |                                                                              | TABLED            |                    | 3/20     |
| MILLER, RON       |            |              | CREATING LIEN FOR FERTILIZER AND CHEMICAL APPLICATORS                        |                   |                    |          |
| HB0713            | 2/22       | 3/19         |                                                                              | CONCUR            |                    | 3/19     |
| WALLIN, NORM      |            |              | INCLUDE VOLUNTEER FIREFIGHTERS IN GOOD SAMARITAN LAW LIMITING LIABILITY      |                   |                    |          |
| HB0714            | 3/05       | 3/19         |                                                                              | CONCUR            |                    | 3/23     |
| SPAETH, GARY      |            |              | CLARIFY DEFINITION OF "CLAIM" UNDER MONTANA'S TORT CLAIMS LAW                |                   |                    |          |
| HB0717            | 3/04       | 3/11         |                                                                              | CONCUR AS AMENDED |                    | 3/26     |
| WALDRON, STEVE    |            |              | AWARD JOINT CUSTODY, ONLY WHEN BOTH PARENTS REQUEST                          |                   |                    |          |
| HB0722            | 3/04       | 3/21         |                                                                              | ADVERSE REPORT    |                    | 3/23     |
| NISBET, GERALD D. |            | (JERRY)      | IMMUNITY OF TELEVISION BROADCASTER OR CABLECASTER FROM LIBEL                 |                   |                    |          |
| HB0726            | 3/04       | 3/11         |                                                                              | ADVERSE REPORT    |                    | 3/13     |
| GOULD, R. BUDD    |            |              | PROBATIONARY LICENSE; 1ST REFUSAL TO TAKE BREATH TEST; PENALTY FOR VIOLATION |                   |                    |          |
| HB0760            | 3/05       | 3/26         | 3/22--Tabled                                                                 | CONCUR            |                    | 3/26     |
| NATHE, DENNIS G.  |            |              | DISSOLUTION DECREE MAY NOT BE ENTERED UNTIL 90 DAYS AFTER FILING AND SERVICE |                   |                    |          |
| HB0778            | 3/06       | 3/18         |                                                                              | CONCUR AS AMENDED |                    | 3/28     |
| SPAETH, GARY      |            | 3/22         | REVISE ATTORNEY FEE PROVISIONS OF WORKERS' COMPENSATION ACT                  |                   |                    |          |

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

March 26, 1985

The fifty-ninth meeting of the Senate Judiciary Committee was called to order at 10:08 a.m. on March 26, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Kermit Daniels who was excused.

CONSIDERATION OF HB 760: Representative Dennis Nathe, sponsor of HB 760, testified this bill changes the bifurcation process present in our current state divorce laws. By that he meant any spouse can file for a divorce, and if the other spouse does not contest that filing, the divorce can become final within 21 days. It comes final, but problems such as division of property and child custody are all left hanging. What HB 760 does is on page 2, lines 13-14. This is the only judicial decree that comes off the bench that does not handle the problem in its entirety. If one party happens to get remarried, then you have three or four people involved in this battle. It places a great burden on the court system. The Child Support Bureau of the Department of Revenue had 600+ cases during the last quarter to get warrants of distraint and notices of levy for. Of that 40% involve paternity suits, and 35% involve this problem where the custody and child support was not settled. What this bill attempts to do is clean up a legal process that is on the books and say before a final decree of dissolution is granted, all of these issues will be settled in a final decree. In divorce, those two parties will have to sit down and take a look at what they are doing and what the impact will be on the children and on themselves.

PROPOSERS: Mike Abley, Administrator of the Montana Supreme Court, testified the court had directed him to urge the committee's support for this bill. The supreme court gets involved in cases that would not come before it if this bill were granted. Things don't remain static when you get divorced. The longer you put off the final paperwork in these cases, the more complex it gets. Ultimately these cases go before the supreme court. The children suffer. The property is tied up for years.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: None.



CLOSING STATEMENT: None.

Hearing on HB 760 was closed.

ACTION ON HB 760: Senator Pinsoneault moved HB 760 be recommended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 837: Representative Bob Pavlovich, sponsor of the bill, testified this bill provides an offense for harming a police dog and prescribes penalties for that offense.

PROPOSERS: Joe Lee, Undersheriff, Butte-Silver Bow Law Enforcement, presented written testimony in support of the bill (Exhibit 1).

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senators Crippen and Mazurek then asked Undersheriff Lee to respond to several questions. The questions and the responses are attached as Exhibit 2.

CLOSING STATEMENT: Representative Pavlovich stated in the state of Washington, the penalty for harming a police dog is \$20,000 and seven years imprisonment.

Hearing on HB 837 was closed.

RECONSIDERATION OF HB 329: Representative Tom Hannah, sponsor of HB 329, stated this bill had been heard before this committee before and he was appreciative of the committee's sense of fairness in hearing it again. He stated this bill deals with lien laws in relationship to materials.

Chairman Mazurek commented the committee had heard HB 329 earlier just after the transmittal deadline. He had indicated that prior to the transmittal break, we would not hear this bill right away. He mixed it up with other lien bills and we heard it. When he remembered he had told some of those that wanted to testify that the committee would not hear the bill until later in the month, he rescheduled it for hearing. He apologized to those present for the inconvenience.

RECONSIDERATION OF HB 329: Representative Tom Hannah, sponsor of HB 329, stated this bill had been heard before, and he was appreciative of the committee's sense of fairness in hearing it again. He limited his remarks to stating this bill deals with lien laws in relationship to materials.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 032685

| NAME                                            | PRESENT | ABSENT | EXCUSED |
|-------------------------------------------------|---------|--------|---------|
| Senator Chet Blaylock                           | X       |        |         |
| Senator Bob Brown                               | X       |        |         |
| Senator Bruce D. Crippen                        | X       |        |         |
| Senator Jack Galt                               | X       |        |         |
| Senator R. J. "Dick" Pinsoneault                | X       |        |         |
| Senator James Shaw                              | X       |        |         |
| Senator Thomas E. Towe                          | X       |        |         |
| Senator William P. Yellowtail, Jr.              | X       |        |         |
| Vice Chairman<br>Senator M. K. "Kermit" Daniels |         |        | X       |
| Chairman<br>Senator Joe Mazurek                 | X       |        |         |
|                                                 |         |        |         |
|                                                 |         |        |         |
|                                                 |         |        |         |
|                                                 |         |        |         |
|                                                 |         |        |         |

# STANDING COMMITTEE REPORT

March 26

19 95

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

having had under consideration

No. 760

third

reading copy ( blue )  
color

(Senator Mazurek)

DISSOLUTION DECREE MAY NOT BE ENTERED UNTIL 90 DAYS AFTER FILING AND SERVICE

Respectfully report as follows: That

HOUSE BILL

No. 760

BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Senator Joe Mazurek

Chairman.